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REPLY TO
ATTENTION OFDEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3735
SEATTLE, WASHINGTON 98124-3735

JUN 12 2001

Regulatory Branch

Spearman Engineering
ATTN: Jay W. Spearman, PE
Post Office Box 230
Bremerton, Washington 98337Reference: 2001-1-00155
Spearman Engineering

Gentlemen:

Your request dated and faxed on February 6, 2001, inquired as to permit requirements for the recovery of processed material from the Duwamish River at the south tip of Harbor Island, Seattle, King County, Washington (drawing enclosed). A Department of the Army permit will be required for your proposed work.

Removal of the aggregate material from the bottom of Duwamish River waterway is considered dredging, even if the underlying sediments were not disturbed. Therefore, your proposal involves work in a navigable water of the United States, which is normally permitted under Section 10 of the Rivers and Harbors Act of 1899. This is reversal of our prior decision that a permit would not be needed for this work. This decision has come after discussion with my staff, the District's Office of Counsel, and other U.S. Army Corps of Engineers (Corps) districts.

Enclosed is permit application (JARPA). Please complete the application and provide drawings including (1) vicinity map - showing the location of the project site, (2) plan view - showing the area to be dredged, and (3) cross-section - showing the depth of the material to be remove.

Under the Corps Federal permit program, permit applications are reviewed for the potential impact on threatened and endangered species pursuant to Section 7 of the Endangered Species Act (ESA), as amended. The ESA requires that Federal agencies take action as necessary to ensure that they do not authorize, fund, or carry out actions that are likely to jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of critical habitat for such species. The Corps, through consultation with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS), must evaluate information on the presence of listed species (including timing and life stages), habitat for such species or their prey sources, and other parameters.

As a result of the ESA listings, and the information requirements and consultation procedures discussed above, you must submit a Biological Evaluation/Assessment (BE/BA). We recommend that you have a qualified biologist with experience and/or

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strong understanding of the species of concern and their habitat as it relates to your project (i.e., marine or fresh water systems). Many consulting firms in the area have qualified biologists on staff that can prepare a BE/BA. Enclosed is a "Biological Evaluations" outline prepared by the Corps and a "Guide to Biological Assessments" developed by the NMFS to assist in the preparation of your BE/BA. You should be aware that we might have additional requests for information or changes to the BE/BA until there is sufficient information to satisfy the requirements of the NMFS and USFWS.

For a list of listed or proposed species present in your project area, contact:

U.S. Fish and Wildlife Service
Endangered Species Division
510 Desmond Drive Southeast, Suite 102
Lacey, WA 98503-1273
Telephone: (360) 753-9440
Website: <http://endangered.fws.gov/index.html>

National Marine Fisheries Service
Washington Habitat Conservation Branch
510 Desmond Drive Southeast, Suite 103
Lacey, WA 98503
Telephone: (360) 753-9530
Website: <http://www.nwr.noaa.gov>

In addition, Harbor Island has been listed on the National Priorities List for clean up under CERCLA (Superfund). This listing may affect work at the site, please contact Allison Hittner with U.S. Environmental Protection Agency, Region 10.

If you have any questions, please contact Ms. Olivia Romano, telephone (208) 754-6980.

Sincerely,

Ann R. Uhrich
Chief, Application Review Section

Enclosures:

OT 6/15/01
TER21/03-RG
all 6/12/01
LUTICH/OD-AG/S/
CD-RG File

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